



CALIFORNIA STATE BOARD OF EDUCATION

ITEM # 17

JANUARY 2004 AGENDA

SUBJECT	X	Action
	<input type="checkbox"/>	Information
	<input type="checkbox"/>	Public Hearing
Vision Testing: Approve Commencement of the Rulemaking Process for Proposed Amendments to Title 5 Code of Regulations		

Recommendation:

Approve the proposed Title 5 regulations regarding vision testing, the Initial Statement of Reasons, and the Notice of Proposed Rulemaking, and direct staff to commence the rulemaking process.

Summary of Previous State Board of Education Discussion and Action

The State Board of Education has previously seen these proposed amendments as an information memoranda. The State Board of Education last considered previous regulations related to vision screening in the 1970s.

Summary of Key Issue(s)

The purpose of the proposed amended regulations is to provide clarification for implementing Education Code sections 49452, 49455, and 49456. The current regulations were adopted between 1973 and 1977. Since that time, technology has changed the way vision screening is done, and more recent legislation has changed who may provide screening in the schools. Specifically, the proposed amended regulations:

- Clarify who may administer vision tests to pupils;
- Replace a brand name vision screening product with a generic term (thus offering the LEAs greater opportunities to be reimbursed for vision screening services through the LEA Medi-Cal Billing Option); and
- Suggest when and how parents or guardians should be notified about the need for a professional vision examination.

Fiscal Analysis (as appropriate)

According to the Economic and Fiscal Impact Analysis, there is no fiscal impact as a result of these regulations. See Attachment 4 for details.

Attachment(s)

[Attachment 1](#): Notice of Proposed Rulemaking (Pages 1-4)

[Attachment 2](#): Initial Statement of Reasons (Pages 1-2)

[Attachment 3](#): Proposed Amendments to the California Code of Regulations Title 5 (Pages 1-4)

Attachment 4: Economic and Fiscal Impact Analysis (Pages 1-5) (This attachment is not available for web viewing. A printed copy is available for viewing in the State Board office.)

CALIFORNIA STATE BOARD OF EDUCATION

1430 N Street; P.O. Box 944272
Sacramento, CA 95814-5901



TITLE 5. EDUCATION

CALIFORNIA SUPERINTENDENT OF PUBLIC INSTRUCTION

NOTICE OF PROPOSED RULEMAKING

Vision Screening

Notice published January 20, 2004

The State Board of Education (State Board) proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PUBLIC HEARING

Program staff will hold a public hearing from **12:30 p.m. to 2:30 p.m. on March 9, 2004**, at 1430 N Street, Room 1101, Sacramento. The room is wheelchair accessible. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the Informative Digest. The State Board requests that any person desiring to present statements or arguments orally notify the Regulations Adoption Coordinator of such intent. The Superintendent requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. No oral statements will be accepted subsequent to this public hearing.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Regulations Adoption Coordinator. The written comment period ends at **5:00 p.m. on March 8, 2004**. The State Board will consider only written comments received by the Regulations Adoption Coordinator by that time (in addition to those comments received at the public hearing). Written comments for the State Board's consideration should be directed to:

Debra Strain, Regulations Adoption Coordinator
California Department of Education
LEGAL DIVISION
1430 N Street, Room 5319
Sacramento, California 95814
E-mail: dstrain@cde.ca.gov
Telephone: (916) 319-0641
FAX: (916) 319-0155

AUTHORITY AND REFERENCE

Authority: Section 49452, *Education Code*.

Reference: Sections 49452 and 44877, *Education Code*.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The State Board proposes to amend Sections 591, 592, 593, and 594 in Title 5 of the *California Code of Regulations* (CCR). These sections concern the screening of pupil vision in the public schools.

The purpose of the proposed amended regulations is to provide clarification for implementing *Education Code* sections 49452, 49455, and 49456. Specifically, the proposed amended regulations clarify who may administer vision tests to pupils, what types of tests may be performed, and when and how parents or guardians should be notified about the need for a professional vision examination.

Education Code sections 49452, 49455, and 49456 provide for vision screening in selected grades, basic components of the school vision testing program, and parent notification of suspected vision defects.

Section 590 as amended will replace the old name “Department of Public Health” with the current name “Department of Health Services.”

Section 591 as amended will reflect the recent change in the title of the credential authorizing service as a school nurse and clarify that the only type of nurse authorized by the *Education Code* to perform vision screening tests in the public schools is a school nurse. The amendment also adds osteopath to the list of licensed professionals who may perform school vision screening.

Section 592 as amended will reflect changes in technology and replace a brand name test with a generic term.

Section 593 as amended will replace the term “eye screening test” with the term “vision screening test” to more accurately express the type of testing performed in the schools.

Section 594 as amended will reflect changes in technology and replace a brand name test with a generic term. This amended section will also provide for the notification of the parents or guardians of pupils who do not pass the initial vision screening and follow-up reevaluations. This amended section also recommends that parents and guardians of pupils with known visual defects be contacted to discuss the pupil’s condition and appropriate ongoing care.

DISCLOSURES REGARDING THE PROPOSED ACTION

Mandate on local agencies and school districts: None

Cost or savings to any state agency: None

Costs to any local agency or school district which must be reimbursed in accordance with *Government Code* section 17561: None

Other non-discretionary cost or savings imposed on local educational agencies: None

Cost or savings in federal funding to the state: None

Significant, statewide adverse economic impact directly affecting business including the ability of California businesses to compete with businesses in other states: None.

Cost impacts on a representative private person or businesses: The State Board is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Adoption of these regulations will not:

- (1) create or eliminate jobs within California;
- (2) create new businesses or eliminate existing businesses within California; or
- (3) affect the expansion of businesses currently doing business within California.

Significant effect on housing costs: None.

Affect on small businesses: The proposed regulations will have no affect on small businesses because they only apply to local educational agencies.

CONSIDERATION OF ALTERNATIVES

In accordance with *Government Code* section 11346.5(a)(13), the State Board must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the State Board, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

The State Board invites interested persons to present statements or arguments with respect to alternatives to the proposed regulations at the scheduled hearing or during the written comment period.

CONTACT PERSONS

Inquiries concerning the substance of the proposed regulations should be directed to:

Linda Davis-Alldritt, Consultant
California Department of Education
School Health Connections
1430 N Street, Suite 6408
Sacramento, CA 95814
E-mail: visionregs@cde.ca.gov
Telephone: (916) 319-0284

Requests for a copy of the proposed text of the regulations, the Initial Statement of Reasons, the modified text of the regulations, if any, or other technical information upon which the rulemaking is based or questions on the proposed administrative action may be directed to the Regulations

Adoption Coordinator, or to the backup contact person, Najia Rosales, at (916) 319-0584.

AVAILABILITY OF INITIAL STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Regulations Adoption Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at her office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulations, and the initial statement of reasons. A copy may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

Following the public hearing and considering all timely and relevant comments received, the State Board may adopt the proposed regulations substantially as described in this notice. If the State Board of Education makes modifications that are sufficiently related to the originally proposed text, the modified text (with changes clearly indicated) will be available to the public for at least 15 days before the State Board adopts the regulations as revised. Requests for copies of any modified regulations should be sent to the attention of the Regulations Adoption Coordinator at the address indicated above. The State Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons may be obtained by contacting the Regulations Adoption Coordinator at the above address.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the Initial Statement of Reasons, the text of the regulations in underline and strikeout, and the Final Statement of Reasons, can be accessed through the California Department of Education's website at <http://www.cde.ca.gov/regulations>

INITIAL STATEMENT OF REASONS
SECTIONS 591 – 594.

SPECIFIC PURPOSE OF THE AMENDED REGULATIONS

The proposed amended regulations will provide clarification for implementing *Education Code* section 49452. Specifically, the regulations clarify who may administer vision tests to pupils, what types of tests may be performed, and how and when parents or guardians should be notified about the need for a professional vision examination.

NECESSITY/RATIONALE

The existing regulations were last amended in 1977. Since that time, there have been changes in vision screening techniques that are not reflected in the existing regulations. *Education Code* section 49452 requires LEAs to test the vision of each pupil enrolled in the district's schools and specifies the individuals qualified to perform vision testing. *Education Code* section 49455 specifies the frequency and basic components of the school vision testing program. The *California Code of Regulations* sections 590-596 provide guidance on vision screening; however, the language in the existing regulations limits the type of testing tool to the Snellen chart. While the Snellen chart is one type of screening tool, as technology has evolved, there are other vision screening tools now available to LEAs. The amended version of the regulations would replace the word "Snellen" with the generic term "optotype" and thereby not limit LEAs to one particular brand of screening tool or test.

The amendment to the *California Code of Regulations* section 594 provides guidance on sending written notice to the parents or guardians of pupils who do not pass the initial vision screening and follow-up reevaluation. This amendment also recommends that parents and guardians of pupils with known visual defects be contacted to discuss the pupil's condition and appropriate ongoing care.

Other amendments to the existing regulations reflect statutory changes since 1977.

Section 590. Duly Authorized Agency Defined.

The amendment reflects the change in the name of the State Department of Public Health to the State Department of Health Services.

Section 591. Employees Authorized to Give Tests.

The amendments reflect the recent change in the title of the credential authorizing service as a school nurse and clarify that the only type of nurse authorized by the *Education Code* to perform vision screening tests is a school nurse.

The amendments provide a technical change to correct the name of the agency authorized to issue teaching credentials.

Note: Authority cited: Section 49452, *Education Code*. Reference cited: Section 44877, *Education Code*

Section 592. Acceptable Course in Vision Screening.

The amendments reflect changes in technology and replace a brand name test with a generic term.

Note: Authority and Reference cited: Section 49452 *Education Code*.

Section 593. Responsibility as to Eligibility.

The suggested term “vision screening test” replaces the term “eye screening test” to more accurately express the type of testing performed in the schools.

Note: Authority and Reference cited: Section 49452, *Education Code*.

Section 594. Examination of Visual Acuity.

The amendments reflect changes in technology and replace a brand name test with a generic term.

The amendments also provide clarity and direction on follow-up referrals for known vision defects or recently identified problems.

Note: Authority and Reference cited: Section 49452, *Education Code*

TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The State Board did not rely upon any other technical, theoretical, or empirical studies, reports or documents in proposing the adoption of this regulation.

REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY’S REASONS FOR REJECTING THOSE ALTERNATIVES.

This proposal is to amend out-dated regulations, not create new regulations. Therefore, the consideration of alternatives is not applicable.

REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

As no adverse impact on small business has been identified, there is no need to examine reasonable alternatives to lessen the impact.

EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT ADVERSE ECONOMIC IMPACT ON ANY BUSINESS.

The proposed regulations would not have a significant adverse economic impact on any business.

Title 5. EDUCATION

Division 1. State Department of Education

Chapter 2. Pupils

Subchapter 3. Health and Safety of Pupils

ARTICLE 4. VISION ~~SCREENING~~ TESTING

Amend Sections 590 – 594 to read:

§590. Duly Authorized Agency ~~Defined~~.

~~“A duly authorized agency,” as used in Pursuant to Education Code Section 49452, means a county superintendent of schools may contract with an agency duly authorized to provide vision tests, which includes a city or county health department, a local health district, or the State Department of Public Health Services.~~

~~NOTE: Authority cited for Article 4: Section 33031 and 49452, Education Code. Issuing agency: Superintendent of Public Instruction. Reference: Section 49452, Education Code.~~

§591. Employees Authorized to Give Tests.

~~(a) An employee of the governing board a school district or of the a county superintendent of schools who may be required or permitted authorized to give vision tests pursuant to Education Code Section 49452 to pupils enrolled in the district and may be designated a “duly qualified supervisor of health” within the meaning of that section if the employee is one of the following:~~

- ~~(a) A physician, ophthalmologist, optometrist, or nurse who holds both:~~
- ~~(1) A certificate of registration from the appropriate California board or agency.~~
 - ~~(2) A health and development credential, or a standard designated service credential with a specialization in health.~~

~~(1) A physician and surgeon or osteopath employed pursuant to Education Code Section 44873.~~

~~(2) A school nurse employed pursuant to Education Code Section 44877.~~

~~(3) An optometrist employed pursuant to Education Code Section 44878.~~

~~Such an employee is a “qualified supervisor of health” as used in this article and in Education Code Section 49452.~~

~~(b) Any other certificated employee of the school district or of the county superintendent~~

of schools ~~who holds a teaching credential issued by the State Board and who has filed with~~
~~the employing school district or county superintendent of schools, as the case may be, may~~
be authorized to give vision tests pursuant to Education Code Section 49452 if the employee
has one of the following documents:

(1) A statement from a qualified supervisor of health that the employee has satisfactorily
completed an acceptable course of in-service training in techniques and procedures in vision
~~screening-testing~~ of at least six clock hours given by the qualified supervisor of health
making the statement and that the employee is qualified to administer vision tests to pupils.

(2) A transcript from an accredited college or university evidencing that the employee
has successfully completed an acceptable course in vision ~~screening-testing~~ of at least one
semester unit.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 44873, 44877, 44878,
and 49452, Education Code.

§592. Acceptable Courses in Vision ~~Screening~~Testing.

An acceptable course in vision ~~screening-testing~~ is one that provides the following:

(a) Basic knowledge of the structure, normal development, and function of the eye and
common anomalies of vision and factors influencing visual performance.

(b) Basic knowledge of signs and symptoms suggesting eye difficulty.

(c) Techniques and procedures in administering ~~Snellen-optotype~~ and color vision tests.

Such techniques and procedures shall include training in the following:

(1) Establishing tests rapport with pupils.

(2) Seating of pupil and placing of equipment.

(3) Providing adequate lighting conditions for the testing situation.

(4) Recording test results.

(5) Referring pupils in need of follow-up.

(d) Practice in administering ~~Snellen-optotype~~ and color vision tests under the supervision
of a duly qualified supervisor of health.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452, Education
Code.

§593. Responsibility as to Eligibility.

Each school district and county superintendent of schools shall determine and be responsible for the eligibility of personnel employed or permitted by the district or county superintendent of schools to administer ~~eye screening~~ vision tests or to conduct inservice training programs in techniques and procedures in administering such tests.

NOTE: Authority cited: Section 33031, Education Code. Reference: Section 49452.

§594. Examination-Test of Visual Acuity.

(a) ~~The following definitions shall apply to terms used in~~ test of visual acuity administered pursuant to Education Code Sections 49452 and 49455. ~~The examination of visual acuity~~ shall mean a test for visual acuity at the far point. This shall be conducted by means of ~~the Snellen Test~~ an optotype test. Conduct of the test and the testing environment shall conform to procedures and settings as described in guidelines ~~the most recent edition of "A Guide for Vision Testing in California Public Schools."~~ issued by the California Department of Education. Consistent with the requirements of Education Code Section 33308.5, the California Department of Education may prepare and periodically update program guidelines relating to vision testing. Test failure for the ~~initial vision~~ visual acuity test shall be defined as follows:

(a~~1~~) For children under six years of age: ~~Vision~~ Visual acuity of 20/50 or worse. The designation 20/50 or worse indicates the inability to identify accurately the majority of letters or symbols on the 40-foot line of the test chart at a distance of 20 feet.

(b~~2~~) For children six years of age or older: Visual acuity of 20/40 or worse. This means the inability to identify the majority of letters or symbols on 30-foot line of the chart.

(c~~3~~) For all children: A difference of visual acuity between the two eyes of two lines on the ~~Snellen Chart~~ optotype chart. This means, for example, visual acuity of 20/20 in one eye and 20/40 in the other or 20/30 in one eye and 20/50 in the other.

(b) If a pupil fails a visual acuity test that is conducted by an employee authorized to give vision tests pursuant to subdivision (b) of Section 591, ~~Following failure of the initial vision acuity screening test,~~ a reevaluation shall be ~~accomplished~~ conducted prior to ~~referral for definitive professional evaluation~~ a report being made to the pupil's parent or guardian. This reevaluation shall be ~~done by persons~~ conducted by an employee authorized to give vision tests pursuant to subdivision ~~as per Section 591(a) of this Article~~ Section 591.

(c) If a pupil fails a visual acuity test conducted by an employee authorized to give vision tests pursuant to subdivision (a) of Section 591, a report shall be made to the pupil's parent or guardian as required by Education Code Section 49456.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452, 49455, and 49456, Education Code.

§595. ~~Examination-Appraisal~~ of Color Vision.

The ~~examination-appraisal~~ of color vision as ~~used~~ in male pupils pursuant to Education Code Sections 49452 and 49455 shall mean a test employing pseudoisochromatic plates. Procedures and criteria of failure as described by the manufacturer shall be used.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452 and 49455, Education Code.

§596. Gross External Observation of the Children's Eyes, Visual Performance and Perception.

Gross external observation of the children's eyes, visual performance and perception, as ~~used in~~ pursuant to Education Code Sections 49452 and 49455, shall mean continuous observation by teachers of the appearance, behavior and complaints of pupils that might indicate vision problems. Also, periodic investigation where pupils' school performance begins to give evidence that existence of the problem might be caused by a visual difficulty. Such an evaluation shall be done in consultation with the school nurse.

NOTE: Authority cited: Section 33031, Education Code. Reference: Sections 49452 and 49455, Education Code.